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In re Application of  
PLATT, et al. : DECISION ON PETITION  
Application No.: 10/009,907 :  
PCT No.: PCT/AU00/00656 : UNDER 37 CFR 1.137(b)  
Int. Filing Date: 09 June 2000 :  
Priority Date: 10 June 1999 :  
Attorney Docket No.: None :  
For: CYCLING EVENT AND AUTO-TRIGGER  
MEMORY HANDLING :

This decision is in response to applicant's "Petition to Revive Abandoned Application Under The Provisions of 37 CFR § 1.137(b)" filed 19 September 2002 with the United States Patent and Trademark Office (USPTO). Applicant included the \$640.00 small entity petition fee.

**BACKGROUND**

On 09 June 2000, applicant filed international application PCT/AU00/00656, which claimed priority of an earlier application filed 10 June 1999. A Demand for international preliminary examination, in which the United States was elected was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 10 December 2001.

On 10 December 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by payment of the full U.S. Basic National Fee; a copy of the International Search Report and a First Preliminary Amendment. An oath or declaration of the inventors was not included.

On 04 February 2002, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date and providing a surcharge of \$65.00 for providing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 04 September 2002, the application became abandoned as to the United States for failure to respond to the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) mailed 04 February 2002.

On 19 September 2002, applicant filed the present petition accompanied by: a check in the amount of \$640.00 as payment of the petition to revive fee; an executed combined declaration and power of attorney and a check in the amount of \$65.00 as payment of the surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date.

### **DISCUSSION**

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (1), the required reply was submission of compliant oath or declaration. Applicant has included the combined declaration and power of attorney along with the present petition.

As to Item (2) the appropriate petition fee of \$640.00 as required by 37 CFR 1.17(m) has been submitted.

With regard to Item (3), applicant's statement that, "the entire period of delay in meeting the outstanding requirements for entry into the U.S. National Phase of the above-identified P.C.T. application was unintentional was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

### **CONCLUSION**

For the reasons stated above, the petition for revival is **GRANTED**.

This application has an international application filing date of 09 June 2000 and will be

given a date of **19 September 2002** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for further processing in accordance with this decision.



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